

REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

ABSTRACT OBJECTION - REPLACEMENT ABSTRACT SHEET

The abstract has been objected to because of the Office Action concerns listed on page 2 of the Office Action. As the attached replacement abstract sheet is believed to be of proper form, reconsideration and withdrawal of the objection to the abstract, are respectfully requested. In the event that the present replacement abstract is itself found not to be of proper form, the Examiner is herein authorized to amend to a suitable replacement abstract. With respect to any past, present or any ultimately implemented Abstract or amendment thereof, Applicant would like to reiterate and embrace the 37 CFR 1.72(b) provisions that "The abstract will not be used for interpreting the scope of the claims."

DISCLOSURE/SPECIFICATION AMENDMENT(S)

The disclosure/specification has been objected to because of the Office Action concerns listed within the "Specification" section on pages 2 and 3 of the Office Action. As the disclosure/specification has been carefully reviewed and has been amended where appropriate in order to address each of the Office Action listed concerns, reconsideration and withdrawal of the objection to the disclosure/specification are respectfully requested. The Examiner's kind amendments suggestions (within the Office Action) have been adopted.

PENDING CLAIMS

Claims 1-8 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is present interested. At entry of this paper, Claims 1-9 will be pending for further consideration and examination in the application.

'101 REJECTION - USEFUL, CONCRETE AND TANGIBLE RESULT

Claims 1-8 have been rejected under 35 USC 101, based on an allegation that such claims fail to provide a useful, concrete and tangible result. Applicant traverses, but respectfully submits that appropriate ones of the rejected claims have been rewritten and include a further useful, concrete and tangible result which is expected would satisfy the Examiner's preference. Based upon the foregoing, reconsideration and withdrawal of the '101 rejection are respectfully requested.

If a situation arises where the only remaining issue blocking allowance is the 101 tangible-result rejection(s), the Examiner is herein requested to telephone the Undersigned at the local Washington, D.C. area telephone number of 703-312-6600, for discussing possible claim amendments for immediate filing, to move the application to allowance.

'112, 1ST PARA. "WRITTEN DESCRIPTION" REJECTION - TRAVERSED

Claims 1-8 have been rejected, under 35 USC '112, first paragraph, as failing to comply with the written description requirement, for the concerns listed within the item 9 on page 4 of the Detailed Action portion of the Office Action. Traversal is appropriate, because the Office Action listed feature was sufficiently described/taught within Applicant's original disclosure.

More particularly, paragraphs [0060]-[0075] explicitly disclose examples of generation of policy rules, and paragraphs [0095]-[0101] explicitly disclose examples of utilizing policy rules in information processing systems.

In the event that the Examiner's rejection is setting forth a position that the exact phrases/language used within Applicant's claim must be found in the same words within the specification, or else a "written description" rejection is appropriate. Traversal is appropriate as follows.

First, MPEP 2163 (directed to "written description" guidelines) itself, explicitly states "...there is no *in haec verba* requirement..." (i.e., "in the same words" requirement) with respect to "written description", and continues to state simply that "...newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure." MPEP 1302.02 states (in relevant part) "...that exact terms need not be used *in haec verba* to satisfy the written description requirement of the first paragraph of 35 U.S.C. 112." MPEP 2163 states two other guidelines of relevance to the present rejection, i.e., "To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention", and secondly, "...the PTO has

the initial burden of presenting evidence or reasons why persons skilled in the art would not have recognized in the disclosure a description defined by the claims." Here, the Office Action comments have supplied only minimal bare conclusionary statements, with no accompanying evidence or reasons. Accordingly, it is respectfully submitted that the Examiner has not met his/her initial burden to support the "written description" rejection.

It is respectfully submitted that, in the present situation, the Examiner could not adequately support the rejection, because the Applicant's claimed features/limitations are implicitly and/or inherently disclosed within Applicant's specification sufficiently for a skilled artisan to conclude possession of the invention. More particularly, again, Applicant directs attention to paragraphs [0060]-[0075] regarding generation of policy rules, and paragraphs [0095]-[0101] regarding utilizing policy rules.

Based upon the foregoing, reconsideration and withdrawal of the above-referenced rejection are respectfully requested. If the Examiner continues such rejection, the Examiner should provide evidence or reasons why persons skilled in the art would not have recognized in the disclosure a description defined by the claims", as required by MPEP 2163.

REJECTION UNDER '112, 2ND PAR. OBLIVIATED VIA CLAIM AMENDMENT

Claims 1-8 have been rejected under 35 USC '112, second paragraph, as being indefinite for the concerns listed on pages 4-7 of the Office Action. Appropriate ones of such claims have been carefully reviewed and carefully amended where appropriate in order to address the Office Action listed concerns. As the foregoing is

believed to have addressed all '112 second paragraph concerns, reconsideration and withdrawal of the '112 second paragraph rejection are respectfully requested.

REJECTION UNDER 35 USC '103

The 35 USC '103 rejection of claims 1-3 and 5-8 as being unpatentable over Walker et al. (U.S. Patent 5,963,911) in view of Bonnell et al. (U.S. Patent 5,655,081); and the rejection of claim 4 as being unpatentable over Walker et al. (U.S. Patent 5,963,911) in view of Bonnell et al. (U.S. Patent 5,655,081) and further in view of Aoshima et al. (U.S. Patent 5,774,718), are respectfully traversed. However, such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed. As additional arguments, Applicant respectfully submits the following remarks supplied from Applicant's foreign representative.

First, it is respectfully submitted that the additional claim recitations are fully supported by the descriptions of the Specification and the accompanying drawings, for example, claim 1 is supported by the descriptions between page 25, line 25 and page 26, line 5 and between page 28, line 3 and page 29, line 15 of the Specification and Fig. 10. Other claims recitations are likewise fully supported.

Regarding "an execution limit condition" pointed out by the Examiner in page 5, lines 7-9 of his letter, Applicant respectfully submits that it is directed to "the timeline" and other equivalents for a man skilled in the art.

Second, the present invention recited in claim 1 would present an outstanding effect of minimizing the evaluated loss amount by:

a step of evaluating an amount of loss by making reference to said job execution schedule and said job execution condition when a special action is taken in the event that a special event occurs in a special one of said jobs at a special time; and

a step of executing the step of evaluating an amount of loss in respect of all of plural actions prepared for said special job and said special event at said special time and determining an action which minimizes the evaluated loss amount thereby to generate a policy rule.

Claim 8 also recites:

a step of evaluating an amount of loss in both a special one of said jobs and succeeding jobs to be executed in a computer by making reference to said job execution schedule and said job execution condition when a special action is taken in the event that a special event occurs in said special one of said jobs at a special time; and

a step of executing the step of evaluating an amount of loss in respect of all of plural actions prepared for said special job and said special event and determining an action which minimizes the evaluated loss amount thereby to generate a policy rule.

Applicant's respectfully submit that the combination of the Examiner's cited Walker ('911), Bonnell ('081), Aoshima ('718) references would not teach or disclose the above features, such as failing to present the effect of minimizing the evaluated loss amount. Moreover, the step by a storage for storing a job execution schedule containing complete schedule times of said plurality of jobs of claim 1 includes a job execution schedule containing complete schedule times of said plurality of jobs that would provide with outstanding effects (see Fig. 2). Above discussion also applies to claim 8.

In concluding, it is respectfully noted that present clarified claims 1-9 contain substantially the same patent scope as claim which have been allowed within Applicant's counterpart Japanese patent application.

As a result of all of the foregoing, it is respectfully submitted that the applied art (taken alone and in the Office Action combinations) would not support a '103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such '103 rejection, and express written allowance of all of the '103 rejected claims, are respectfully requested.

EXAMINER INVITED TO TELEPHONE

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 500.43703X00) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

/Paul J. Skwierawski/
Paul J. Skwierawski
Registration No. 32,173

PJS/slk
(703) 312-6600